ATTORNEY DOCKET NO.            PATENT
063170.6658            Serial No. 10/784,498

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## REMARKS

At the time of the Final Office Action and Decision, Claims 1-21 were pending and stand rejected. Applicant respectfully traverses these rejections. For purposes of advancing prosecution, however, Applicant amends Claims 1, 2, 14, 15, 17, 18, and 19. Applicant respectfully requests reconsideration and allowance.

### I. Claim Rejections under 35 U.S.C. § 102

The Examiner rejects Claims 1, 4-19, and 21 under 35 U.S.C. § 102(b) as being anticipated by *Chen*. Applicant respectfully traverses these rejections. For purposes of advancing prosecution, however, Applicant amends Claims 1, 14, 15, 17, 18, and 19. *Chen* fails to disclose every element of amended Claims 1, 14, 15, 17, 18, and 19.

For example, as amended, Claim 1 recites:

> A method of identifying problems in applications, comprising:
> monitoring at a kernel level system resource usage of one or more running applications without modifying run-time environments of the one or more applications;
> determining a system resource usage pattern of a first application, the system resource usage pattern indicating a change in the system usage of the first application from a first time period to a second time period;
> determining whether the change in the system resource usage of the first application satisfies a predetermined criteria associated with one or more problems; and
> if the change in the system resource usage of the first application satisfies the predetermined criteria, identifying the first application to a user.

*Chen* fails to recite, expressly or inherently, every element of amended Claim 1 for at least several reasons. First, *Chen* fails to recite "determining whether the change in the system resource usage of the first application satisfies a predetermined criteria associated with one or more problems." Second, *Chen* fails to recite "if the change in the system resource usage of the first application satisfies the predetermined criteria, identifying the first application to a user." As a result, as described further below, Claim 1 is allowable.

### A. "determining whether the change in the system resource usage of the first application satisfies a predetermined criteria associated with one or more problems"

*Chen* fails to recite "determining whether the change in the system resource usage of the first application satisfies a predetermined criteria associated with one or more problems."

In addressing the previous version of Claim 1, the Final Office Action asserts that *Chen*, at col. 92, ll. 56-60, allegedly discloses "determining whether the system resource usage pattern of the first application satisfies a predetermined criteria associated with one or more problems." Final Office Action, p. 3. While Applicant does not agree with this characterization of *Chen*, Applicant notes that the cited portion of *Chen* indicates:

> When this is the case, the condition is monitored constantly. Each time the condition switches from false to true, a time stamp is taken. *As long as the condition stays true*, the elapsed time since the last time stamp is compared to DURATION and, if it equals or exceeds DURATION, the alarm is triggered.

> When it can be done without forcing the data feed interval to become less than one second, filtd makes sure at least three data feeds will be taken in DURATION seconds. This is done by modifying the data feed interval if necessary.

> *Chen*, col. 92, ll. 25-34 (emphasis added).

Thus, the cited portion of *Chen* fails to describe any "*change* in the system resource usage" (emphasis added) nor any manner of "determining *whether the change* in the system resource usage of the first application *satisfies a predetermined criteria* associated with one or more problems" (emphasis added). As a result, *Chen* fails to disclose "determining whether the change in the system resource usage of the first application satisfies a predetermined criteria associated with one or more problems" as recited by amended Claim 1.

B.  "if the change in the system resource usage of the first application satisfies the predetermined criteria, identifying the first application to a user."

*Chen* also fails to recite, "if the change in the system resource usage of the first application satisfies the predetermined criteria, identifying the first application to a user." As noted above, the cited portions of *Chen* fail to disclose determining "determining whether the change in the system resource usage of the first application satisfies a predetermined criteria . . .," and *Chen* likewise fails to disclose any operation initiated "if *the change in the system resource usage* of the first application satisfies the predetermined criteria" (emphasis added).

Additionally, the portion of *Chen* cited by the Final Office Action as allegedly disclosing "identifying the first application to a user" merely indicates that "[t]here is a threshold alarm value, to trigger an action as described below." *Chen*, col. 16, ll. 19-23. The cited portion does not disclose "identifying the first application to a user." Thus, for at least

these reasons, the cited portion does not disclose, "if the change in the system resource usage of the first application satisfies the predetermined criteria, identifying the first application to a user," as recited by amended Claim 1.

As a result, *Chen* fails to recite, expressly or inherently, every element of amended Claim 1. Claim 1 is thus allowable for at least these reasons. Although of differing scope from Claim 1, Claims 12, 14, 15, 17, 18, and 19 are allowable at least for analogous reasons to those discussed with respect to Claim 1. Applicant respectfully requests reconsideration and allowance of Claims 1, 12, 14, 15, 17, 18, and 19 and their respective dependent claims.

## II.     Claim Rejections under 35 U.S.C. § 103

In the Final Office Action, the Examiner rejects Claims 2, 3, and 20 under 35 U.S.C. § 103(a) over *Chen* in view of U.S. Patent No. 5,485,626 to Lawlor et al. ("*Lawlor*"). Applicant respectfully traverses these rejections. Claims 2 and 3 depend from Claim 1, and Claim 20 depends from Claim 19. Claims 1 and 19 have both been shown above to be allowable. Claims 2, 3, and 20 are thus allowable for at least these reasons. Applicant respectfully requests reconsideration and allowance of Claims 2, 3, and 20.

Furthermore, several clams that depend from independent Claims 1, 12, 14, 15, 17, 18, or 19 are allowable for additional reasons. For example, Claim 3 recites:

> The method of claim 1, wherein:
> monitoring at a kernel level system resource usage of one or more running applications comprises monitoring a parent-child relationship between one or more running processes and each of the one or more applications; and
> determining whether the system usage pattern of the first application satisfies a predetermined criteria associated with one or more problems comprises determining whether the first application has orphaned one of the one or more running processes.

*Chen* and *Lawlor*, both alone and in combination, fail to disclose, teach, or suggest every element of Claim 3. For example, the proposed *Chen-Lawlor* combination fails to disclose that "determining whether the system usage pattern of the first application satisfies a predetermined criteria associated with one or more problems comprises determining whether the first application has orphaned one of the one or more running processes." In addressing this element of Claim 3, the Final Office Action cites to a portion of *Lawlor* that describes a

"system administrator" that is able to kill processes "that have become 'pathologically insane,' or running rampant." Contrary to the assertions of the Final Office Action (p. 2), the cited portion does not indicate that such processes have "become non responsive or disconnected from their parent process." Indeed, the cited portion of *Chen* makes <u>no reference</u> to "non-responsive" processes or to processes "disconnected from their parent process." *See Lawlor*, col. 93, ll. 13-29. Thus, the Final Office Action mischaracterizes *Lawlor* in addressing this element. Moreover, *Lawlor*, as well as the proposed *Chen-Lawlor* combination, fails to disclose "determining whether the system usage pattern of the first application satisfies a predetermined criteria associated with one or more problems comprises determining whether the first application has orphaned one of the one or more running processes" as recited by Claim 3.

As a result, the proposed *Chen-Lawlor* combination fails to disclose, teach, or suggest additional elements of Claim 3. Claim 3 is thus allowable for at least these additional reasons. Although of differing scope from Claim 3, Claim 20 includes additional elements that are not disclosed, taught, or suggested by the proposed *Chen-Lawlor* combination for reasons analogous to those discussed with respect to Claim 3. Applicant respectfully requests reconsideration and allowance of Claims 3 and 20, as noted above.

## CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for other apparent reasons, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, please feel free to contact the undersigned attorney for Applicant at (214) 953-6452.

The Commissioner is authorized to charge $810.00 as payment for the fee to file a Request for Continued Prosecution, $130.00 as payment for the fee to file a Request for Extension of Time, any other fee, or credit any overpayment, to **Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.**

Respectfully submitted,

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Date: November 14, 2009

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